

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

SOUTHERN

District of

NEW YORK

ENERGY BRANDS INC. d/b/a GLACÉAU

JUDGE RAKOFF

NATIONAL BEVERAGE CORP.

SUMMONS IN A CIVIL ACTION

CASE NUMBER:

08 CIV 4909

TO: (Name and address of Defendant)

National Beverage Corp.
One North University Drive
Fort Lauderdale, Florida 33324

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

David H. Bernstein, Esq.
Debevoise & Plimpton LLP
919 Third Avenue
New York, New York 10022

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL MAHAHAN

MAY 28 2008

CLERK

DATE

(By) DEPUTY CLERK

AFFIDAVIT OF SERVICE

**UNITED STATES DISTRICT COURT
Southern District of New York**

Index Number: 08-CIV-4909

Date Filed: 5/28/2008

Plaintiff:

ENERGY BRANDS, INC. d/b/a GLACEAU,

vs.

Defendant:

NATIONAL BEVERAGE CORP,

For:

David H. Bernstein

DEBEVOISE & PLIMPTON, LLP

919 Third Avenue

New York, NY

Received by Professional Process Servers on the 29th day of May, 2008 at 9:00 am to be served on **NATIONAL BEVERAGE CORP., ONE NORTH UNIVERSITY DRIVE, FORT LAUDERDALE, FL 33324.**

I, Pedro Elias Bo Sauder, being duly sworn, depose and say that on the **29th day of May, 2008** at 2:45 pm, I:


Served the within named Corporation by delivering a true copy of the **SUMMONS IN A CIVIL ACTION AND COMPLAINT WITH EXHIBITS** with the date and hour of service endorsed thereon by me to VICKY HILDEN as CORPORATE COUNSEL of the within named corporation, in compliance with State Statutes.

Under penalty of perjury, I do hereby certify that I have read the foregoing Affidavit of Service and that the facts stated in it are true. I have no interest in the above action. I am a Special Process Server in the county in which it was served in good standing.



Subscribed and Sworn to before me on the 30th day of May, 2008 by the affiant who is personally known to me.


NOTARY PUBLIC


Pedro Elias Bo Sauder
786

Professional Process Servers
& Investigators, Inc.
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(954) 588-2523
Our Job Serial Number: 2008010385